

the date, the manner in which service was attempted, and an explanation of why it was not accomplished.

- d) The date of service is the date the complaint is placed in the mail to the respondent.
- 3) For complete instructions on the service of documents, refer to the "Service" chapter of the Enforcement Division's Clerical Case Processing Manual.

B. Privacy Concerns:

- 1) Concern has been voiced regarding DFEH complaints that are served on an individual respondent but opened by another employee at the respondent's facility. It was asserted that this may result in the inappropriate "publication" of this information to employees at the worksite, thereby interfering with the individual's privacy and inhibiting respondent's ability to conduct impartial investigations.
- 2) After DFEH places a service package in the mail, it has no control over what happens to it at the respondent's facility. However, to the extent DFEH actions may affect the privacy of respondents, the following procedures apply:
 - a) All DFEH service documents will be placed in envelopes marked "**PERSONAL AND CONFIDENTIAL: TO BE OPENED BY ADDRESSEE OR DESIGNATE ONLY.**"
 - b) All DFEH complaints against a primary respondent will be addressed to the highest ranking individual at the facility at which the complainant alleges the discriminatory act(s) took place, e.g., President, CEO, Director of Human Resources, etc., unless the respondent has designated a specific person to be served.
 - c) Whenever possible, complaints against a co-respondent will be served to the home address of the co-respondent, if known.
 - d) It is the responsibility of the intake consultant to ask complainants to provide home addresses for co-respondents. If home addresses are not available, co-respondent complaints will be served on the **co-respondent** at the primary respondent's address.

The co-respondent service envelope will be marked as indicated in section 4.B.2)a), above.

- 3) The procedures described in this section apply to DFEH complaints that are accepted for investigation.

C. Service Methods for Complaints Accepted for Investigation:

- 1) Certified Mail:
 - a) Government Code section 12962 provides that complaints be served by certified mail or by personal service. Most complaints will be served by certified mail.
 - b) When the certified mail return receipt is returned by the post office, it is to be stapled to the file copy of the service letter by support staff. (Refer to the "Service" chapter of the Enforcement Division Clerical Case Processing Manual.)
- 2) Personal Service:
 - a) Personal service may be necessary when:
 - (1) The respondent has refused to accept service by certified mail.
 - (2) The post office has returned the original certified mail service documents with a notation such as "Not Claimed," "Undeliverable," "No Such Address," or "Addressee Moved."
 - (3) The District Administrator directs that personal service is warranted.
 - b) Whenever possible, the complaint will be personally delivered to the individual to whom the service letter is addressed.
 - c) Unless otherwise indicated below, the date of service is the date the service documents are handed to the individual to whom the service letter is addressed.
 - d) The individual who personally serves the complaint will document service by:

- (1) Completing a "Proof of Service of Complaint" (DFEH-500-09) and placing it in the case file.
 - (2) Making an entry in the Case Diary noting that the complaint was personally served and DFEH-500-09 is in the file.
- 3) Substituted Service:
 - a) "Substituted service" is the service of the complaint on an individual other than the individual named in the service letter.
 - b) When the complaint cannot be personally served on the individual to whom the service letter is addressed, and service by certified mail has been unsuccessful, "substituted service" is necessary.
 - c) The assigned consultant is responsible for accomplishing personal service.
 - d) Different "substituted service" rules apply depending upon whether the respondent is a business entity or an individual person:
 - (1) "Substituted service" on a **business entity** respondent:
 - (a) When the respondent is a business entity such as "Company X," "substituted service" may be accomplished by leaving the service documents (copy of the complaint, service letter, etc.) with an individual at the respondent's business office during regular business hours. The service documents must be left with the individual who is apparently in charge of the office. While this individual will generally be a manager, the service documents may be left with a non-supervisory employee (e.g., receptionist, etc.) if a manager is not present.
 - (b) A second copy of the service documents must be mailed, first class, to the person to

whom the service letter is addressed, at the location where the first set of service documents was left. The second set should be mailed on the same day that the first set of service documents was left at the business address.

- (c) The date of service is the date the second set of service documents is mailed.

(2) Substituted service on an **individual** respondent:

- (a) If the respondent is an individual, substituted service may be accomplished by leaving the service documents at the dwelling house, usual place of abode, or usual place of business of the respondent.
 - (b) The service documents must be given to a competent member of the household or a person apparently in charge of the place of business, who is at least 18 years old. The nature of the service documents must be explained to the individual with whom the documents are left.
 - (c) A second copy of the service documents must be mailed, first class, to the person to whom the service letter is addressed, at the location where the first set of service documents was left. The second set should be mailed on the same day that the first set of service documents was left at the house, abode or business address.
 - (d) The date of service is the date the second set of service documents is mailed.
- e) "Substituted service" should be used only as a last resort, after repeated attempts at certified mail and personal service have been unsuccessful.
 - f) The individual who accomplishes "substituted service" will document service by using the same proof of service procedures described in section 4.C.3)(d), above.

5. **APPROVAL:**

Suzanne M. Ambrose, Director

Date